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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,070	04/26/2001	Dwip N. Banerjee	AUS920010179US1	8485

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EXAMINER

SALIARD, SHANNON S

ART UNIT	PAPER NUMBER
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3639

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/843,070	Applicant(s) BANERJEE ET AL.	
	Examiner Shannon S. Saliard	Art Unit 3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10, 12-16, 18-26, 28-30 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 12-16, 18-26, 28-30, and 34-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Applicant has cancelled claims 6, 11, 17, 27, and 31-33. Claims 1-4, 7, 8, 10, 12-15, 18, 19, 21-25, and 28-30 have been amended. Claims 34-37 have been newly added. Thus claims 1-5, 7-10, 12-16, 18-26, 28-30, and 34-37 remain pending and are presented for examination.

Response to Arguments

2. Applicant's arguments with respect to claims 1-5, 7-10, 12-16, 18-26, 28-30 and 32 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-5, 9, 10, 12-16, 20-26, 30, and 34** are rejected under 35 U.S.C. 102(e) as being anticipated by Logan et al [U.S. Patent No. 6,199,076].

As per **claims 1, 12, and 22**, Logan et al discloses a method for execution by one or more processors for pricing access to e-content comprising: transmitting the e-content over a network to a computer for access (col 5, lines 35-39); tracking the access

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to the e-content, wherein the access is tracked as a quantity of the e-content accessed, a quantity of time spent accessing the e-content, or combinations thereof; accepting the tracked access (col 9, lines 6-10); and charging a price that is determined as a predetermined function of the tracked access (col 28, lines 24-41).

As per **claims 2, 13, and 23**, Logan et al further discloses establishing a usage profile for an individual; storing in the usage profile the access tracked during a first session; and updating the usage profile to reflect the access tracked during a subsequent session (col 6, lines 41-49; col 10, lines 29-43).

As per **claims 3, 14, and 24**, Logan et al further discloses wherein the step of updating the usage profile includes accumulating the tracked access over a plurality of sessions (col 6, lines 41-49; col 10, lines 29-43).

As per **claims 4, 15, and 25**, Logan et al further discloses wherein the price is determined as a predetermined function of the access to the e-content during the current session, a tracked accumulation of the access, or a combination thereof (col 6, lines 41-49; col 10, lines 29-43).

As per **claims 5, 16, and 26**, Logan et al further discloses wherein the predetermined function is a non-linear function (col 28, lines 24-41).

As per **claims 9, 20, and 30**, Logan et al further discloses further comprising determining whether any copies of the transmitted e-content were made (col 11, lines 57-63).

As per **claims 10 and 21**, Logan et al further discloses further comprising periodically receiving messages from the usage tracker indicating a change in the tracked access (col 38, lines 31-54).

As per **claim 34**, Logan et al further discloses further comprising providing an access tracker for performing the step of tracking the access to the e-content (col 19, lines 21-28).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 7, 8, 18, 19, 28, 29, and 35-37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al [U.S. Patent No. 6,199,076] in view of Lewis [US 2003/0040962].

As per **claims 7, 18, and 28**, Logan et al discloses all the limitations of claim 1. Logan et al does not disclose wherein the step of accepting return includes receiving the entire e-content. However, Lewis discloses a method of accepting return of e-content including receiving the entire e-content [0036; 0200-0205; 0216]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Logan et al to include the method disclosed by Lewis. Lewis

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provides the motivation that returning the e-content in the specified time frame helps the user to avoid additional charges [0205].

As per **claims 8, 19, and 29**, Logan et al does not disclose wherein the step of accepting return includes deleting the e-content from the computer. However, Lewis discloses a method of accepting return of e-content including deleting the e-content from the individual's computer [0200-0205; 0216]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Logan et al to include the method disclosed by Lewis. Lewis provides the motivation that returning the e-content helps the user to avoid additional charges [0205].

As per **claims 35, 36, and 37**, Logan does not discloses further comprising accepting return of the e-content from the computer. However, Lewis discloses a method of accessing e-content including accepting return of the e-content from the user [0036; 0200-0205; 0216]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Logan et al to include the method disclosed by Lewis. Lewis provides the motivation that returning the e-content helps the user avoid additional charges [0205].

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shannon S. Saliard whose telephone number is 571-272-5587. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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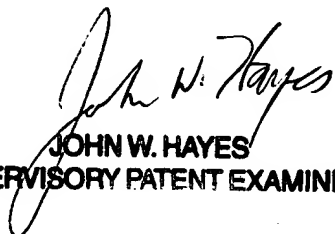
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Hand delivered responses should be brought to the Customer Service Window,
Randolph Building, 401 Dulany Street, Alexandria, VA 22314

Shannon S Saliard
Examiner
Art Unit 3639

SSS


**JOHN W. HAYES
SUPERVISORY PATENT EXAMINER**